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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/593,702

09/20/2006

Mats Cardell

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02/18/2009

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EXAMINER

FITZGERALD, JOHN P

ART UNIT

PAPER NUMBER

2856

MAIL DATE

DELIVERY MODE

02/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/593,702	Applicant(s) CARDELL ET AL.	
	Examiner JOHN FITZGERALD	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 3-6 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-21 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2856

DETAILED ACTION

Election/Restrictions

1. Claims 3-6 and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 13 January 2009.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 7-21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/45884 to Eckerbom et al. and WO 03/017837 to Eckerbom. WO 00/45884 discloses an arrangement for the analysis of respiratory gases (Figs. 1-3) provided to and from a patient connected to a respirator including a holder unit (2) for a removably fitted water trap (1) that is adapted to receive the respiratory gases via (5), a connection (see abstract) passageway that is adapted to provide liquid-free gas from the water trap to an analyzing instrument (see abstract) to which the analyzing instrument and holder unit is connected; wherein the holder unit has indentations and formations allowing the water trap to be removably fitted thereto, as well as interlocking features/apertures (14) cooperating with locking tabs (12) located on the water trap to lock the two units together and to the connection devices (15, 16) which pass gases to and from the analyzing instrument via hoses. WO 00/45884 does not expressly disclose the

Art Unit: 2856

employment of a fuel cell (oxygen gas measuring unit) removably attached to the holder unit having a connection adapted to receive the liquid-free gas (as recited in claims 1 and 12, specific arrangements of transporting the liquid-free gas from the analyzing instrument to the fuel cell (as recited in claims 2 and 13); specific signal communication means/elements containing information related to the status/function of the fuel cell and contacts to provide connections for said signal communications associated with connection features, as recited in the remainder of the claims. WO 03/017837 discloses an arrangement for quantitative analysis of respiratory gasses from a patient (Figs. 1 and 2) having various adaptors and connectors with a measuring head (2) for analyzing gases including a fuel cell (18) for measuring the oxygen content of the respiration gases which is removably connected to an adaptor/holder (1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a fuel cell, as taught by WO 03/017837, which is removably connected to the holder unit disclosed by WO 00/45884, thus providing a single unit capable of performing both oxygen analysis and water-trapping, thus reducing the number of components required in an arrangement for analysis of respiratory gases. As to the remaining claims regarding specific signal communication means/elements containing information related to the status/function of the fuel cell and contacts to provide connections for said signal communications associated with connection features, it is well within the ordinary skill level in the art to provide any type of electrical connection means for power and/or signal communication for data transfer in combination with the claimed holding/fitting/locking elements (already disclosed by WO 00/45884), for the instant specification fails to indicate any criticality to these particular elements to the instant invention other than their basic intended functions which are well known and employed in the art.

Art Unit: 2856

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is invited to review PTO form 892 accompanying this Office Action listing Prior Art relevant to the instant invention cited by the Examiner.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Fitzgerald whose telephone number is (571) 272-2843. The examiner can normally be reached on Monday-Friday from 7:00 AM to 3:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams, can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John Fitzgerald/
Examiner, Art Unit 2856
2/17/09